

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY JUNE 1, 2005

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1505**

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**Introduced by Assembly Member La Suer  
(Coauthor: Assembly Member Cohn)**

February 22, 2005

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An act to amend Sections 2085.5 of the Penal Code, relating to restitution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, as amended, La Suer. Victim restitution.

Existing law prohibits deductions from being made from an inmate's wages and trust account for a restitution order if the victim has not filed an application with the Victim Compensation Program.

This bill would not require a victim to file an application with the Victim Compensation Program in order to receive money from the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 2085.5 of the Penal Code is amended to  
2     read:  
3     2085.5. (a) In any case in which a prisoner owes a restitution  
4     fine imposed pursuant to subdivision (a) of Section 13967 of the

1 Government Code, as operative prior to September 28, 1994,  
2 subdivision (b) of Section 730.6 of the Welfare and Institutions  
3 Code, or subdivision (b) of Section 1202.4, the ~~Director of~~  
4 ~~Corrections~~ *Secretary of the Department of Corrections and*  
5 *Rehabilitation* shall deduct a minimum of 20 percent or the  
6 balance owing on the fine amount, whichever is less, up to a  
7 maximum of 50 percent from the wages and trust account  
8 deposits of a prisoner, unless prohibited by federal law, and shall  
9 transfer that amount to the California Victim Compensation and  
10 Government Claims Board for deposit in the Restitution Fund in  
11 the State Treasury. Any amount so deducted shall be credited  
12 against the amount owing on the fine. The sentencing court shall  
13 be provided a record of the payments.

14 (b) In any case in which a prisoner owes a restitution order  
15 imposed pursuant to subdivision (c) of Section 13967 of the  
16 Government Code, as operative prior to September 28, 1994,  
17 subdivision (h) of Section 730.6 of the Welfare and Institutions  
18 Code, or subdivision (f) of Section 1202.4, the ~~Director of~~  
19 ~~Corrections~~ *Secretary of the Department of Corrections and*  
20 *Rehabilitation* shall deduct a minimum of 20 percent or the  
21 balance owing on the order amount, whichever is less, up to a  
22 maximum of 50 percent from the wages and trust account  
23 deposits of a prisoner, unless prohibited by federal law. The  
24 ~~director secretary~~ shall transfer that amount to the California  
25 Victim Compensation and Government Claims Board for direct  
26 payment to the victim, or payment shall be made to the  
27 Restitution Fund to the extent that the victim has received  
28 assistance pursuant to that program. The sentencing court shall  
29 be provided a record of the payments made to victims and of the  
30 payments deposited to the Restitution Fund pursuant to this  
31 subdivision.

32 (c) The ~~director~~ *secretary* shall deduct and retain from the  
33 wages and trust account deposits of a prisoner, unless prohibited  
34 by federal law, an administrative fee that totals 10 percent of any  
35 amount transferred to the California Victim Compensation and  
36 Government Claims Board pursuant to subdivision (a) or (b). The  
37 ~~director secretary~~ shall deduct and retain from any prisoner  
38 settlement or trial award, an administrative fee that totals 5  
39 percent of any amount paid from the settlement or award to  
40 satisfy an outstanding restitution order or fine pursuant to

1 subdivision (j), unless prohibited by federal law. The ~~director~~  
2 *secretary* shall deposit the administrative fee moneys in a special  
3 deposit account for reimbursing administrative and support costs  
4 of the restitution program of the Department of Corrections *and*  
5 *Rehabilitation*. The ~~director~~ *secretary*, at his or her discretion,  
6 may retain any excess funds in the special deposit account for  
7 future reimbursement of the department's administrative and  
8 support costs for the restitution program or may transfer all or  
9 part of the excess funds for deposit in the Restitution Fund.

10 (d) In any case in which a parolee owes a restitution fine  
11 imposed pursuant to subdivision (a) of Section 13967 of the  
12 Government Code, as operative prior to September 28, 1994,  
13 subdivision (b) of Section 730.6 of the Welfare and Institutions  
14 Code, or subdivision (b) of Section 1202.4, the ~~Director of~~  
15 ~~Corrections~~ *secretary* may collect from the parolee any moneys  
16 owing on the restitution fine amount, unless prohibited by federal  
17 law. The ~~director~~ *secretary* shall transfer that amount to the  
18 California Victim Compensation and Government Claims Board  
19 for deposit in the Restitution Fund in the State Treasury. Any  
20 amount so deducted shall be credited against the amount owing  
21 on the fine. The sentencing court shall be provided a record of  
22 the payments.

23 (e) In any case in which a parolee owes a direct order of  
24 restitution, imposed pursuant to subdivision (c) of Section 13967  
25 of the Government Code, as operative prior to September 28,  
26 1994, subdivision (h) of Section 730.6 of the Welfare and  
27 Institutions Code, or paragraph (3) of subdivision (a) of Section  
28 1202.4, the ~~Director of Corrections~~ *secretary* may collect from  
29 the parolee any moneys owing, unless prohibited by federal law.  
30 The ~~director~~ *secretary* shall transfer that amount to the California  
31 Victim Compensation and Government Claims Board for direct  
32 payment to the victim, or payment shall be made to the  
33 Restitution Fund to the extent that the victim has received  
34 assistance pursuant to that program. The sentencing court shall  
35 be provided a record of the payments made by the offender  
36 pursuant to this subdivision.

37 (f) The ~~director~~ *secretary* may deduct and retain from any  
38 moneys collected from parolees an administrative fee that totals  
39 10 percent of any amount transferred to the California Victim  
40 Compensation and Government Claims Board pursuant to

subdivision (d) or (e), unless prohibited by federal law. The ~~director~~ *secretary* shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (j), unless prohibited by federal law. The ~~director~~ *secretary* shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections *and Rehabilitation*. The ~~director~~ *secretary*, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the department's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(g) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections *and Rehabilitation* shall collect the restitution order first pursuant to subdivision (b).

(h) When a parolee has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections *and Rehabilitation* may collect the restitution order first, pursuant to subdivision (e).

~~(i) It is the intent of the Legislature that the Department of Corrections consider utilizing a collection service such as the Franchise Tax Board court-ordered debt collection program for the collection of restitution fines and restitution orders from parolees.~~

~~(j)~~

(i) If an inmate is housed at an institution that requires food to be purchased from the institution canteen for unsupervised overnight visits, and if the money for the purchase of this food is received from funds other than the inmate's wages, that money shall be exempt from restitution deductions. This exemption shall apply to the actual amount spent on food for the visit up to a maximum of fifty dollars (\$50) for visits that include the inmate and one visitor, seventy dollars (\$70) for visits that include the inmate and two or three visitors, and eighty dollars (\$80) for visits that include the inmate and four or more visitors.

~~(k)~~

(j) Any compensatory or punitive damages awarded by trial or settlement to any inmate or parolee in connection with a civil action brought against any federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of any award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to subdivisions (c) and (f). The Department of Corrections *and Rehabilitation* shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

~~(f)~~

(k) (1) Amounts transferred to the California Victim Compensation and Government Claims Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation and Government Claims Board. If the restitution payment to a victim is less than fifty dollars (\$50), then payment need not be forwarded to that victim until the payment reaches fifty dollars (\$50) or until 180 days from the date the first payment is received, whichever occurs sooner.

(2) In any case in which a victim cannot be located, the restitution revenues received by the California Victim Compensation and Government Claims Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) Any victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections *and Rehabilitation*, which in turn shall verify that moneys were in fact collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections *and Rehabilitation*, the California Victim Compensation and

1 Government Claims Board shall transmit the restitution revenues  
2 to the victim in accordance with the provisions of subdivision (b)  
3 or (e).

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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Assembly, May 2, 2005 (JR11)**

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